Mr. Bernard Fensterwald
1707 H St., NW, Suite 1005
Washington, D.C. 20006

9/10/76

Dear Bud,

Jim just phoned me. He reported his this afternoon's conversation with you, what three possibilities you presented to him, his reaction (which he correctly anticipated would be mine) and your request that I give you my views as soon as possible. To this end I've laid what I was doing aside so I can mail this tonight. Otherwise there is no telling when this would reach you because out Saturday mail actually is routed through the Baltimore post office, which had reached the perfection in inefficiency 20 years ago.

I take your third proposal, the one Jim said he would relay, to be a fairly accurate recollection of what I told you of my meeting with Schweiker. What you did not recall is that I also proposed simultaneous testimony, some or all of them and me, all carefully reminded of the penalties of perjury. This is what I had also proposed to Tiny and Rick for Downing and showed them the records. So you know why I've stayed away from them.

I was aware of what is afoot. This is why I wrote you several weeks ago, based on what was coming back to me in the form of inquiries, not reports.

A case in point is Les Whitten, who told Mary Smolensky to check some things with me. I understand from this that they also are pushing for a current passing of a resolution by the Rules committee, knowing the House is not a continuing body. Their and I presume not their alone position is that action in this session would be the best public relations for the coming section. As of now I believe my description of this as baby bullshit is an understatement. Of the many reasons I gave Mark I'll repeat one: all of what has been presented is garbage. Get a resolution passed on garbage and it will fly back in the face in the next session. The executive agencies will sit and wait and then move in for a fairly certain kill.

If a single relevant fact has been presented to the Congress I'm not aware of it. There were a few cases in which some of the pot-boilers could not miss what was in the papers but typically they did not understand it and they led to disasters.

Jim says you tend not to approve action this session. We agree. I'm opposed to it if it can be stopped. If it can't be I'm prepared to go what I offered the Schweiker and Downing. Certain as I then was that there is no other way, with the past year I'm positive.

Before going into that I want to add to what I cautioned Schweiker against, theorizing. It also can't be done through the CIA. If you have as many requests before them as I do I'll be surprised. I'm talking about getting an investigation and under conditions that can do something toward preventing another whitewash in it. There is one possible exception and it is something I have and want to use. I', adding it to the coming reprint of Photographic Whitewash and I would like decent used of the ancillary rights. If I am asked to testify I would be willing to use it, if I testify. Of course if I'm subpoenaed I'd have to. But I'd not have to volunteer. And if I do it under compulsion I'll volunteer nothing unless there are major changes between now and then.

Jim simplified too much when he said the only thing is to take the Warren Report head on. It is true. But not the whole thing, which was disinformation. You are a lawyer, as are most Members. The JFK assassination was a homicide. What is the basic evidence of that homicide and was the Report right in it? Except for the fact of murder, nothing in the Report on this is true. Not a single thing!

Since I can't ask the questions for the committee I'll have to testify. The way to do this where appropriate is in confrontation. Me and the relevant witnesses.

Without having time to think it through again and intending a minimum:

Dallas doctors: Malcolm Perry and Charles Carrico;

Bethesda Doctors: Humes, Boswell plus the radiologist and photographer (Stringer) and the then surgeon general Kenney, with Fink and preferably for subtle reasons that can be important Galloway;

All of the Clark panel, with duces tecum subpoenaes;

FBI: Frazier, Gallagher Shaneyfelt and all labor personnel involved in the tests;

Secret Service: Tom Kelley.

I regard these as sufficient. I'd like to add some Commission people, like Rankin, Specter, Slawson (Coleman is in the Cabinet), Belin and Ball (here to make it non-political. This gets a little past the basic evidence of the homicide except with Rankin and Specter.

With all of these I really should be on the stand at the same time. Not to interrupt but to be able to be questioned simultaneously on the same point of fact or evidence. If I had one other wish to be granted it would be that Howard Roffman sit with me. And be able to also testify with me, not just backstop, which he could do admirably. He knows my files in some cases better than I do and had done his own fine work.

If this begins with a hunt for goats or exculpations it will not deserve to succeed if it should and will in the end at least be handicapped by it. As you've heard me say, if we would teach the Pope religion we ought go to church ourselves. It simply must try to go down the middle and not blame Hoover or the CIA or the Castroites or try to either blame or exculpate Johnson, Warren, Hobby or anyone else. It has to deal with the most basic fact and leave the rest to an investigation, except that if it looks like there will be an investigation the town should be blanketed with duces tecum subpoenaes. I have proof of destructions already. More should be punishable.

I had hoped you'd want to talk about my letter. I was addressing self- defeat as best I now recall it. This is why I was in your office Wednesday. I'll be in town again Thursday but if things go as they should without time. The hearing can't end that day the way the judge spoke Wednesday. Jim says the government is manoeuvering already.

If Mark tries to horn in on any of this I'll ruin the bastard. He's deserved it for years and I've been almost entirely silent. He'll ruin it if he succeeds. As he has ruined everything he has been involved in, except himself and his self-advancements. Given the chance I can do this. I'll not do it without assurance of a solid chance with no messing around by anyone. And there really is no other way to succeed. For the Members in favor and willing to be responsible there will be a bigger payoff that by following the traditional means of self-promotion. And you realize I'm talking about what the Congress has not done, what individual Members have not done and what other writers and litigants have not done. I'm talking about my own work, with help from people like Jim and Howard. (I would like Jim on the other side and not only for making notes. I don't think the agencies of the administration or Ford's people will like this a bit.)

By now you have seen that when I say I won't do what I don't believe in I won't. You can also look back on my forecasts, of the speech of a year and a half ago and to Schneider, of which you know, and to Rhek and Riny, who may not have told you. We can look back on much together, not just these things. How many times have I been wrong?

If there is agreement to take this approach I'd probably have no big objection to doing it in this session. I might even be for it if I were assured that a real effort of another kind would be made. Passing a resolution on crap and irrelevancies would be a real damage. Blasting the whole thing open could preclude that. As a matter of fact it could be done hastily. I could dictate the general outline in less than a day with

the AAs or LAs of the interested members. They could then do the whole thing of their own briefings. But this, too, would be better with Howard there.

I did not mean to suggest all those witnesses at one time. I'd say the FBI agents first, the Bethesda autopsy people next, then the Dallas doctors or the panel, etc. One step of basic evidence at a time. One set of witnesses at a time.

I don't know if you've taken the time to read Post Mortem yet but I've had not a single complaint from any one person mentioned in it. Including Belin, who came out for a new investigation the minute he finished it.

When it comes to pass it can be a real load off of me and I can do other things I want to do. But I'm not prepared to make the efforts I made with Garrison. The Members can do their thing if they want to and I'll do what I can of mine. I don't care if a lot of books are wrecked in a success.

In evaluating this remember you told me that an old fire horse would respond to the clanging of Garrison's bells in the Shaw courtroom. I told you when I'd leave. I was mover in that courtroom, spent my time on other work (part of Post Mortem) and did leave exactly when I said I would. I received many requests to return and did not.

Ford is a separate matter. What we've discussed is not by any means all I have.

If there is serious interest in serious talk to me about this I do not drive to Washington. The bus gets me there about 8:30. Jim will know better than I what our court schedule is.

Sincerely,